



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

SK/RCH/EMR/PP/MD
F. #2019R00927

271 Cadman Plaza East
Brooklyn, New York 11201

May 24, 2022

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Genaro Garcia Luna
Criminal Dkt. No. 19-576 (BMC)

Dear Judge Cogan:

The parties respectfully submit this written status update to the Court in the above-captioned matter, in advance of the upcoming status conference scheduled for May 25, 2022. The parties agree that an order of excludable delay following the upcoming status conference is appropriate based on the Court's previous complex case designation in this matter.

In addition, the parties respectfully write to update the Court on the following issue:

- Discovery and Early Production of Certain Jencks Act Material
 - The government continues the process of collecting and reviewing discovery for production to the defendant on a rolling basis. To facilitate the defendant's preparation for trial, the government has agreed to review Jencks Act material and identify materials that can be produced well in advance of trial on a rolling basis for early disclosure. The government anticipates making an initial production of such material this week.
 - To date, the government has produced more than one million pages of documents and voluminous intercepted communications. The government has produced the vast majority of the discoverable material in its possession. It expects to make smaller productions on a rolling basis as it receives additional discoverable materials and/or identifies such material in its possession.

- Request for Particulars

- By letter dated April 15, 2022, defense counsel requested particulars regarding the charges alleged in the indictment and materials pursuant to Brady v. Maryland, 373 U.S. 83 (1963). On May 1, 2022, the government responded by letter and provided the defendant with certain particulars and certain information provided, in an abundance of caution, pursuant to Federal Rule of Criminal Procedure 16, 18 U.S.C. § 3500, Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). The government further advised defense counsel that, in order to facilitate trial preparation, the government would review its Jencks Act material and identify those materials that could be produced to defense counsel well in advance of trial on a rolling basis.

- CIPA Proceedings

- On May 20, 2022, the government filed an ex parte, classified motion for a protective order pursuant to the Classified Information Procedures Act, Title 18, United States Code, Appendix III, Section 4, and Federal Rule of Criminal Procedure 16(d)(1), with related material (the “Section 4 Motion”). See Dkt. No. 90. The Court had previously scheduled an ex parte hearing on the Section 4 Motion for June 2, 2022 at 10:00 a.m., when the due date for the Section 4 Motion was originally May 3, 2022. In light of the subsequent adjournment of the due date of the Section 4 Motion to May 20, 2022, the government respectfully requests that the Court adjourn the date of the ex parte hearing on the Section 4 Motion to a date at the end of June 2022. In addition, defense counsel also respectfully requests that the Court schedule an ex parte, in camera appearance, at which defense counsel will have the opportunity to present to the Court potential trial defenses that will assist the Court in its review of the Section 4 Motion and its related materials.

Respectfully submitted,

BREON PEACE
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cc: Cesar de Castro, Esq. and Valerie Gotlib, Esq. (by ECF)
Clerk of the Court (BMC) (by ECF)